



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Dayton, Ohio

Docket No. 8808

Application of:

VINCENT, P. G.

Group Art Unit: 3623

Serial No. 09/729,540

Examiner: JEANTRY, ROMAIN

Filed: December 4, 2000

For: **SYSTEM AND METHODS FOR GRAPHICALLY REPRESENTING  
PURCHASE PROFILES AND SALES GUIDANCE TO A  
CUSTOMER SERVICE REPRESENTATIVE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO THE DIRECTOR UNDER 37 CFR 1.81**

Sir:

This petition is provided in response to a Notification of Non-Compliant Appeal Brief mailed from the U.S. Patent and Trademark Office Notice on March 24, 2006. A copy of the Notification of Non-Compliant Appeal Brief is attached.

The Notification of Non-Compliant Appeal Brief states that Applicant's Appeal Brief filed on December 29, 2005 is defective for the following reasons:

1. The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order; and
4. (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number

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CERTIFICATION OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 3/30/06.

By: Michelle George  
Name: Michelle George

and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

Applicant has reviewed the Notification of Non-Compliant Appeal Brief and the Appeal Brief filed on December 29, 2005, and can find no defects in the Appeal Brief as filed. The Appeal Brief contains all items required under 37 CFR 41.37(c); as well as a concise explanation of the subject matter defined in each or the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters.

The Notification of Non-Compliant Appeal Brief contains the following explanation supporting the above recited defects in the Applicant's Appeal Brief: "Although Appellant provided support for the argued independent claims, however, any support in the specification must be provided for any argued dependent claims as well. For example, at bottom of page 8 of the brief, Appellant argued that the dependent claims 2-10 are patentable over the prior art of record but no support was provided." This support is not required in the present appeal.

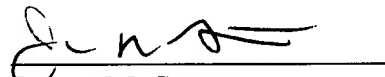
The present Appeal Brief contains arguments concerning the patentability of independent claims 1, 11 and 16. The Appeal Brief includes this discussion of dependent claims 2 through 10 immediately following the arguments concerning the patentability of independent claim 1: "It is accordingly believed that claim 1, as well as claims 2 through 10 which depend therefrom, each recite an invention which is patentable over the cited references to Melchione, Kolawa and Fisher, taken singularly or in combination." Similarly, the Appeal Brief include this discussion of dependent claims 12 through 15, and 17 through 21 following the arguments concerning the patentability of independent claims 11 and 16: "Correspondingly, claims 12 through 15 which depend from claim 11, and claims 17 through 21 which depend from claim 16, are believed to be patentable over the cited references."

The dependent claims contained in this appeal are not argued separately in the Appeal Brief, thus there is no requirement that support in the specification for any of the dependent claims be included in the Appeal Brief.

Applicant respectfully requests that the Notification of Non-Compliant Appeal Brief for Application No. 09/729,540 be withdrawn, and the Appeal to the Board of Patent Appeals and Interferences continued with the acceptance of the Appeal Brief filed on December 29, 2005.

Please charge any fee required for the filing of this Petition to the Director to NCR Corporation Deposit Account No. 14-0225.

Respectfully submitted,

  
James M. Stover  
Attorney for Applicants  
Reg. No. 32,759

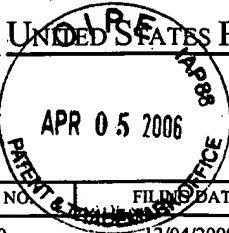
NCR Corporation  
Dayton, Ohio

Tel. No. (513) 445-7663  
Fax No. (513) 445-6794



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,540	12/04/2000	Perry G. Vincent	8808	4786

26890 7590 03/24/2006

JAMES M. STOVER  
NCR CORPORATION  
1700 SOUTH PATTERSON BLVD, WHQ4  
DAYTON, OH 45479

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MAR 27 2006

LAW DEPARTMENT

EXAMINER

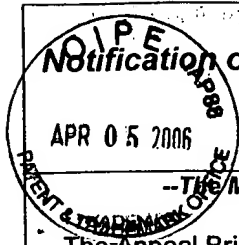
ART UNIT

PAPER NUMBER

DATE MAILED: 03/24/2006

*Response Due 4/24/06*

Please find below and/or attached an Office communication concerning this application or proceeding.



**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/729,540

Examiner

Romain Jeanty

Applicant(s)

VINCENT PERRY, G.

Art Unit

3623

RECEIVED  
MAR 2 2006  
LAW DEPARTMENT

--THE MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 29 December 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Although Appellant provided support for the argued independent claims, however, any support in the specification must be provided for any argued dependent claims as well. For example, at bottom of page 8 of the brief, Appellant argued that the dependent claims 2-10 are patentable over the prior art of record, but no support was provided.

*Romain Jeanty*  
Primary Examiner  
Art Unit 3623



DPW/AF

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

6

Application Number

09/729,540

Filing Date

December 4, 2000

First Named Inventor

Perry G. Vincent

Art Unit

3623

Examiner Name

Romain Jeanty

Attorney Docket Number

8808

**ENCLOSURES (Check all that apply)**

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Drawing(s)



Licensing-related Papers



Petition



Petition to Convert to a

Provisional Application



Power of Attorney, Revocation

Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) \_\_\_\_\_

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board  
of Appeals and InterferencesAppeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify  
below):Certified Copy of Priority  
Document(s)Reply to Missing Parts/  
Incomplete ApplicationReply to Missing Parts  
under 37 CFR 1.52 or 1.53**Remarks**

Petition requesting withdrawal of Notification of Non-Compliant Appeal Brief dated March 24, 2006.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

NCR Corporation, 1700 South Patterson Blvd., Dayton, Ohio 45479-0001

Signature

Printed name

James M. Stover

Date

March 28, 2006

Reg. No.

32,759

**CERTIFICATE OF TRANSMISSION/MAILING**

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Signature

Typed or printed name

Michelle George

Date

March 28, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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